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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-20920
**U.S. Citizenship
and Immigration
Services**



L2

Date: JUN 14 2012 Office: GARDEN CITY

FILE:

IN RE: Applicant:

APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), *amended by* LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director of the Garden City office and is before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director determined that the applicant had not established that he resided in the United States in a continuous unlawful status from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act. This decision was based, in part, on the director's conclusion that the applicant's testimony regarding his daughter's conception was inconsistent. The director found that the witness statements submitted were insufficient.

On appeal, counsel reiterates the applicant's claim of continuous residence in the United States throughout the requisite period. Counsel asserts that the applicant has resolved the inconsistencies raised by the director. On appeal, the applicant submitted supplemental declarations.

An applicant for permanent resident status must establish entry into the United States before January 1, 1982 and continuous residence in the United States in an unlawful status since such date and through May 4, 1988. *See* § 1104(c)(2)(B) of the LIFE Act and 8 C.F.R. § 245a.11(b).

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States and is otherwise eligible for adjustment of status under this section. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. 8 C.F.R. § 245a.12(e).

The "preponderance of the evidence" standard requires that the evidence demonstrate that the applicant's claim is "probably true," where the determination of "truth" is made based on the factual circumstances of each individual case. *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989). In evaluating the evidence, *Matter of E-M-* also stated that "[t]ruth is to be determined not by the quantity of evidence alone but by its quality." *Id.* Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.

Even if the director has some doubt as to the truth, if the petitioner submits relevant, probative, and credible evidence that leads the director to believe that the claim is "probably true" or "more likely than not," the applicant or petitioner has satisfied the standard of proof. *See U.S. v. Cardozo-Fonseca*, 480 U.S. 421 (1987) (defining "more likely than not" as a greater than 50 percent probability of something occurring). If the director can articulate a material doubt, it is appropriate for the director to either request additional evidence or, if that doubt leads the director to believe that the claim is probably not true, deny the application or petition.

Although the regulations provide an illustrative list of contemporaneous documents that an applicant may submit, the list also permits the submission of affidavits and any other relevant document. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to establish entry into the United States before January 1, 1982 and continuous residence in the United States in an unlawful status since such date and through May 4, 1988. Here, the applicant asserts that he entered the United States on a nonimmigrant visitor's visa on October 16, 1981 and again in August of 1983. He further asserts that he lost the passport with proof of said entries.

The applicant made a claim to class membership in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (Act) on March 12, 1991. At part #35 of the Form I-687 application where applicants were asked to list all absences from the United States beginning from January 1, 1982, the applicant listed an absence from this country from July 1983 to August 1983 when he traveled to Bangladesh to see his parents. The applicant included a "Legalization Front-Desk Questionnaire" in which he indicated that he was absent from the United States for a brief period in 1983.

In his decision, the director indicated that the applicant's testimony at an interview, stating he had been absent between July 25, 1983 and August 30, 1983 was inconsistent with the information he provided on his Form I-687. This statement shall be withdrawn. The applicant's oral testimony regarding the dates of his absence are consistent with the information he provided on his forms.

The director stated that the applicant's testimony as to when his daughter was born in Bangladesh led the director to surmise that the applicant had been absent from the United States for longer than he had indicated. In rebuttal, the applicant said that his daughter was [REDACTED] in Bangladesh and his wife had visited him in the United States between February and April of 1986.

Finally, the director determined that the declarations submitted by the applicant were deficient because the declarants did not submit proof that they were present in the United States during the requisite period. On appeal, the applicant submitted two supplemental declarations accompanied by proof of one of the declarant's United States citizenship.

The documentation that the applicant submits in support of his claim to have arrived in the United States before January 1982 and resided in an unlawful status during the requisite period consists of declarations from individuals claiming to know the applicant, letters from an organization and mosque and two employers' letters. The AAO has reviewed each document to determine the applicant's eligibility; however, the AAO will not quote each witness statement in this decision.

The letter from [REDACTED] states that the applicant had been working as an assistant Imam in their mosque since January 1987. The letter does not conform to regulatory standards for letters from organizations as stated in 8 C.F.R. § 245a.2(d)(3)(v). The letter fails to show inclusive dates of membership, state the address where the applicant resided during membership period, establish how the author knows the applicant and establish the origin of the information being attested to. Lacking relevant details, the letter has minimal probative value and will be given nominal weight as evidence in support of the applicant's claim.

The letter from the General Secretary of the Bangladesh Society states that the applicant is a "veteran member of [REDACTED] since 1982." [sic] The letter does not conform to

regulatory standards for letters from organizations as stated in 8 C.F.R. § 245a.2(d)(3)(v). The letter fails to show inclusive dates of membership, state the address where the applicant resided during membership period, establish how the author knows the applicant and establish the origin of the information being attested to. Lacking relevant details, the letter has minimal probative value and will be given nominal weight as evidence in support of the applicant's claim.

The declarations from [REDACTED] and [REDACTED] are general in nature and state that the witnesses have knowledge of the applicant's residence in the United States for all, or a portion of, the requisite period. These statements fail, however, to establish the applicant's continuous unlawful residence in the United States for the duration of the requisite period. As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality; an applicant must provide evidence of eligibility apart from his or her own testimony; and the sufficiency of all evidence produced by the applicant will be judged according to its probative value and credibility. Steve Logan stated that the applicant resided with him between November 1981 and December 1984 and indicated that they met at a friend's party. He provided scant details about his relationship with the applicant. Similarly, [REDACTED] stated that he knows that the applicant came to the United States in October 1981, but fails to state the basis of his knowledge.

None of the witness statements provide concrete information, specific to the applicant and generated by the asserted associations with him, which would reflect and corroborate the extent of those associations and demonstrate that they have a sufficient basis for reliable knowledge about the applicant's residence during the time addressed in the affidavits. To be considered probative and credible, witness statements must do more than simply state that a declarant knows an applicant and that the applicant has lived in the United States for a specific time period. Their content must include sufficient detail from a claimed relationship to indicate that the relationship probably did exist and that the witness does, by virtue of that relationship, have knowledge of the facts alleged. Upon review, the AAO finds that, individually and together, the witness statements do not indicate that their assertions are probably true. Therefore, they have minimal probative value and will be given little weight as evidence in support of the applicant's claim of continuous residence in the United States during the requisite period.

The applicant submitted two letters from former employers. The first was written by [REDACTED] owner of [REDACTED]. The second was written by a supervisor [REDACTED].

The regulation at 8 C.F.R. § 245a.2(d)(3)(i) provides that letters from employers must include: (A) Alien's address at the time of employment; (B) Exact period of employment; (C) Periods of layoff; (D) Duties with the company; (E) Whether or not the information was taken from official company records; and (F) Where the records are located and whether the Service may have access to the records. If the records are unavailable, an affidavit form-letter stating that the alien's employment records are unavailable and why such records are unavailable may be accepted in lieu of subsections (E) and (F).

[REDACTED] statement does not fully comply with the above cited regulation because it does not provide the applicant's address at the time of employment; or describe the applicant's duties with the company. The letter written by [REDACTED] is deficient in that the name of the

letter's signatory is illegible, fails to provide the applicant's address at the time of employment or describe the applicant's duties with the company. Neither indicated whether the information was taken from official company records. Given these deficiencies, these letters are of minimal probative value in supporting the applicant's claims that he entered the United States before January 1, 1982 and continuously resided in the United States for the requisite period.

Thus, the applicant failed to establish that he was continuously physically present in the United States in the period beginning on November 6, 1986 and ending on May 4, 1988 as required by 8 C.F.R. § 245a.11(c), and, therefore, is ineligible to adjust to permanent resident status under the provisions of the LIFE Act on this basis as well.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.